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DATE: June 13, 2005 TO: COMMISSIONER FOR PATENTS, U.S. PATENT & TRADEMARK OFFICE FAX NO: (703) 872-9306 (GENERAL/MAIN FAX LINE) NO. OF PAGES: Cover + 4	
<u>CERTIFICATE OF FACSIMILE TRANSMISSION</u> I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on the date indicated below. Renee M. Franks Typed/Printed Name Signature June 13, 2005 Date	APPLICATION NO. 10/769,386
	FILING DATE 01/31/2004
	FIRST NAMED INVENTOR Tehri S. Lee
	ART UNIT 2651
	CONFIRMATION NO. 9439
	EXAMINER Dismery E. Mercedes
	ATTORNEY DOCKET NO. K35A1358
TITLE	SERVO WRITING A DISK DRIVE BY SYNCHRONIZING A SERVO WRITE CLOCK IN RESPONSE TO A SYNC MARK RELIABILITY METRIC

ATTACHED WITH THIS SUBMISSION:

1. Transmittal Form (1 page)
2. Fee Transmittal for FY 2005 (1 page)
3. Response to Restriction Requirement (2 pages)

PLEASE CONFIRM RECEIPT OF THIS TRANSMISSION. IF THERE IS ANY PROBLEM WITH THIS TRANSMISSION, PLEASE CALL RENEE M. FRANKS AT (949) 672-7871.

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PTO/SB/21 (09-04)

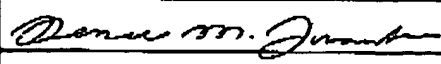
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/769,386
	Filing Date	01/31/2004
	First Named Inventor	Tehri S. Lee
	Art Unit	2651
	Examiner Name	Dismery E. Mercedes
Total Number of Pages in This Submission	Attorney Docket Number	K35A1358

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Western Digital	
Signature		
Printed name	Milad G. Shara, Esq.	
Date	June 13, 2005	Reg. No. 39,367

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:		
Signature		
Typed or printed name	Renee M. Franks	Date June 13, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (12-04)

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)-0-

Complete if Known

Application Number	10/769,386
Filing Date	01/31/2004
First Named Inventor	Tehri S. Lee
Examiner Name	Dismery E. Mercedes
Art Unit	2651
Attorney Docket No.	K35A1358

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 23-1209 Deposit Account Name: WESTERN DIGITAL

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims - 20 or HP = _____ x _____ = _____ **Fee Paid (\$)**

HP = highest number of total claims paid for, if greater than 20

Indep. Claims - 3 or HP = _____ x _____ = _____ **Fee Paid (\$)**

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____	_____	_____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: _____

SUBMITTED BY		Registration No. 39,367	Telephone (949) 672-7814
Signature		(Attorney/Agent)	
Name (Print/Type)	Milad G. Shara, Esq.	Date	June 13, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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JUN 13 2005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Tehri S. Lee

Serial No.: 10/769,386

Filed: 1/31/2004

For: SERVO WRITING A DISK DRIVE BY
SYNCHRONIZING A SERVO WRITE
CLOCK IN RESPONSE TO A SYNC MARK
RELIABILITY METRIC

Art Unit: 2651

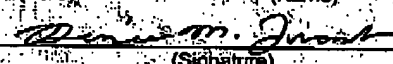
Examiner: Dismery E. Mercedes

Confirmation No.: 9439

Docket No.: K35A1358

RESPONSE TO RESTRICTION REQUIREMENT

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FACSIMILE TRANSMISSION	
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June 13, 2005 (Date)	Renee M. Franks (Name)
 (Signature)	

Dear Sir:

In response to the Restriction Requirement mailed on May 18, 2005 for the above-identified patent application, Applicant elects Claims 1, 3, 6-9, 10, 12, 15 and 16, which read on species a defined by the Examiner. Claims 1, 6-9, 10, 15 and 16 are generic.

The present election is being made with traverse. Applicant submits that it is well established that:

Art Unit 2651
Serial No. 10/769,386

Reply to Office Action of: May 18, 2005
Attorney Docket No.: K35A1358

If the search and examination of an entire application can be made without **serious burden**, the examiner **must** examine it on the merits, **even though it includes claims to independent or distinct inventions**.

M.P.E.P. § 803 (emphasis added).

The non-elected species and elected species are directed to methods and disk drives relating to synchronizing a servo write clock in response to a timing recovery measurement, which is generated in response to a detected sync mark and a sync mark reliability metric. A proper search for art related to the elected species would necessarily include the classes and subclasses relevant to a search for the non-elected species. Thus, examination of all the claims would not present "a serious burden" on the Examiner. Applicant therefore respectfully requests that the present restriction requirement be withdrawn.

Respectfully submitted,

Date: June 13, 2005

By: 

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